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EXAMINER

BUCHANAN, CHRISTOPHER R

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3627

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GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/923,702
Filing Date: August 07, 2001
Appellant(s): YODO, FUMITAKE

Andrew T. Zidel

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 7, 2006 appealing from the Office action mailed October 12, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal: as identified in the brief, application 09/600,509 and application 09/923,618.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct. However, the examiner withdraws the rejection under U.S.C. 103(a) based upon Peterson in view of "How Computers Work", listed as item (B) by the appellant.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,857,020

PETERSON

1-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (US 5,857,020) alone.

Peterson '020 discloses an accounting system having accounting center (16) and a terminal device (70, 98, and 86). The terminal device comprising; a first memory (within card 88, e.g. memory 91); a second memory (within medium 70, e.g. 79); a first controller (86 and 94 within 86); the controller updates the attributes of the distributed information to an unavailable state (e.g. when the expiration time expires, the desired

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content again becomes unavailable); the controller updates the accounting points stored in the first memory based upon the distributed information (the change in points is a function of the cost of the content accessed); when accounting points are updated correctly; the controller updates attributes of the distributed information from an unavailable state to the available state (i.e. the user can access the desired information and the charge for that access is deducted); and a second controller (modem). The accounting center comprises a third controller (the personal computer ("PC")) adapted to carry out an account processing (updating a user's account such as purchasing more points, inquiring into the number of points available, or receiving points for returned items, etc.) based upon the accounting points transmitted from the terminal device.

Regarding the system having a connector, it has been well known in peer-to-peer communication networks to include detectors in order to determine whether a portable device is connected to the system. Accordingly, to provide Peterson '020 with a detector would have been obvious for one having ordinary skill in the art at the time of the invention. The motivation for such a change would have been to provide more efficient network protocol method.

Regarding the additional limitation beginning with, "when the detector...", this limitation is merely conditional phraseology; therefore, such a phrase is functional language having no patentable weight. Also, it is noted the system does not positively recite a portable device is attached to the terminal device.

(10) Response to Argument

Appellant argues that Peterson '020 fails to show or suggest a detachable portable device having a storage medium, and a terminal device including a detector for detecting whether the portable device is connected to the terminal device, wherein the when a connection is detected, distributed information is made available after carrying out a point processing in the terminal device.

First, Appellant has not claimed "a detachable portable device having a storage medium." Nothing in the claim requires that the portable device be "detachable." So even if the Examiner admits that Appellant's arguments are true, they are ultimately not persuasive. For this reason alone, Appellant's arguments are not persuasive.

Second, Peterson '020 however directly discloses a terminal device **14** with a portable device **12** having a storage medium **10**; the terminal device **14** includes a detector (software and hardware in the electrical connection between **12** and **14** as shown in Figure 1) for detecting whether or not the portable device **12** is connected to the terminal device **14**; and when the connection is detected, the claimed information is available.

The Examiner also notes that when a connection is not detected, one of ordinary skill in the art recognizes that no information will be transmitted. Moreover, Peterson '020 directly discloses storage medium **10** as being a DVD or CD-Rom. Peterson also directly discloses that the connection between terminal device **14** and portable device **12** is a two-way connection. In other words, information is passed from **12** to **14** and from **14** to **12**. It is the Examiner's position that it is impossible to transfer this data

without the software detecting the connection. A practical example will help illustrate this point.

As noted above, Peterson '020 directly discloses medium reader **12** as a DVD or CD-ROM reading device. If a user of Peterson '020 was sending data back to medium reader **12** to have the data output to output device **20**, the terminal device **14** would clearly detect the connection. If a reviewing body still doesn't find this persuasive, the Examiner respectfully suggests try sending information (such as DVD information as disclosed in Peterson '020) to the medium reader such as in a DVD recorder. In the middle of the operation, pull the plug or break the connection. Clearly device **14** detects that the connection is no longer there.

Another example may also help illustrate this point. Suppose the system was simply reading the DVD information from reader **12**. Again, in the middle of the reading operation, physically break the electrical connection between the DVD reader **12** and terminal device **14**. After literally breaking the connection, if the terminal device continues to read the data (*i.e.* it does *not* detect that the connection has changed and in this case has ended), the Examiner respectfully requests that the Board make this finding on the record. Upon such a finding, the Examiner will promptly issue this application.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Lastly, as required by the Order dated May 3, 2006, the Appeal Brief received on February 24, 2005 has been held defective, the appellant has submitted a revised Appeal Brief that is in compliance with the current rules regarding headings and content, the Examiner's Answer has been revised to comply with the current rules regarding headings and content, the Information Disclosure Statements received on September 6, 2005 and April 11, 2006 have been considered, and the appellant has been informed of the consideration given to the Information Disclosure Statements.

Respectfully submitted,



Christopher Buchanan

Conferees:

Vincent Millin



F. Ryan Zeender

